

This letter refers the taxpayer to additional resources for information regarding the tax liabilities of computer software. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

July 28, 2006

Dear Xxxxx:

This letter is in response to your letter dated August 1, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

ABC, headquartered in CITY/STATE currently sells medical bill review and management information software to the insurance industry under the brand name SOFTWARE. ABC plans to release a web-based version of the software. ABC will host and maintain the SOFTWARE on servers located in STATE and the software will be accessed by customers via a web-browser.

ABC never delivers the software to its customers either in tangible format or by electronic means. Our customers will be required to sign a software license agreement. Under the terms of the software license agreement, pre-existing customers are required to uninstall the existing licensed product from their site at which time ABC shall begin maintaining the licensed product on its (ABC's) computer systems and allow the customer and its authorized users access to the software, and the customers' data, via the Internet or other electronic means.

Please provide us your opinion regarding the proper application of Connecticut' sales & use tax laws with respect to the software hosted in STATE and accessed remotely.

The other product ABC is requesting a taxability determination is called NETWORK. This product supports the SOFTWARE. The NETWORK product is designed for first party automobile medical bills, and re-prices them based on discounts off of billed

charges or state fee schedules. The product provides a network of certified professional and facility medical providers specifically focused on auto liability.

Our customer's (an insurance company) access the NETWORK directory through their website or a directory provided by the NETWORKs. They then offer their claimants a list of the medical providers from the directory when seeking medical care. These auto specific networks have a high concentration of trauma specialist, physical therapists, and chiropractors, and other doctors needed by first-party claimants. The networks have all agreed by contract to charge certain fees for certain services.

After the medical services are rendered, our client receives an invoice for these services discounted or re-priced based on our network discount. After the medical services are rendered, our customer obtains an extract from our Medical claims software program. This extract, which contains the medical bills processed and cost savings from using the NETWORK, is sent to our billing department. We bill our customer a PPO fee based on a percentage of the savings produced from using the NETWORK. In turn ABC will send the NETWORK a percentage of the savings from the medical bills based on a contractual agreement.

Is the PPO discount fee ABC charges to our customer subject to sales tax?

If the application is hosted by ABC and accessed via the Internet, does this change the taxability status?

Please call if you have further questions or need additional information.

DEPARTMENT'S RESPONSE:

The Illinois Department of Revenue is unable to issue an opinion regarding Connecticut sales and use taxes. However, the Department has issued various general information letters regarding the issues discussed in your request. You may find helpful information regarding computer software by viewing the Department's "Sunshine Letter" rulings which may be found on the Department's internet website at the location shown below. For example, see general information letters ST-02-0226-GIL and ST-02-0260-GIL. In addition, you have inquired regarding the taxability of Application Service Provider ("ASP") software transactions. The Department has reviewed this issue and declines, at this time, to issue general information letters in regards to these transactions.

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

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